

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

Jacky Lee Robinson,
Plaintiff

vs

William Eleby, et. al.,
Defendants

Case No. C-1-07cv815
(Dlott, J.)
(Hogan, M.J.)

REPORT AND RECOMMENDATION

This matter is before the Court on Plaintiff's Notice of Dismissal (Doc. 19). Plaintiff's Notice was filed pursuant to Fed. R. Civ. P. 41(a)(1), but was erroneously docketed as a "Motion to Dismiss."

Fed.R.Civ.P. 41(a)(1) provides in pertinent part:

[[t]he plaintiff may dismiss an action without a court order by filing (i) a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment; or (ii) a stipulation of dismissal signed by all parties who have appeared.

Because Defendants had filed neither an Answer nor motion for summary judgment, Plaintiff is entitled to voluntarily dismiss his Complaint without a Court Order. *See* Fed. R. Civ. P. 41(a)(1)(A). Accordingly, the Court **RECOMMENDS** that Plaintiff's Complaint be **DISMISSED** without prejudice. *See* Fed. R. Civ. P. 41(a)(1).

Date:

7/24/08


Timothy S. Hogan
United States Magistrate Judge

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Plaintiff

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Defendant

(Dlott, J.; Hogan, M.J.)

**NOTICE TO THE PARTIES REGARDING THE FILING OF OBJECTIONS TO THIS
R&R**

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to this Report & Recommendation ("R&R") within **TEN (10) DAYS** after being served with a copy thereof. That period may be extended further by the Court on timely motion by either side for an extension of time. All objections shall specify the portion(s) of the R&R objected to, and shall be accompanied by a memorandum of law in support of the objections. A party shall respond to an opponent's objections within **TEN DAYS** after being served with a copy of those objections. Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

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1. Article Addressed to:

Jacky Lee Robinson
451-317
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PO Box 728
Lucasville, OH 45699

2. Article Number

(Transfer from service label)

7007 0710 0000 8130 4877

PS Form 3811, August 2001

Domestic Return Receipt

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